

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:21-00249

JOSEPH DAVID BAILEY

**MEMORANDUM OPINION AND ORDER**

Pending before the court is defendant's motion to continue the trial and all related deadlines. (ECF No. 25). In support of defendant's motion and the need for a continuance, counsel for defendant states that he needs additional time to review the additional discovery that he anticipates will soon be provided by the government and to fully investigate the case in order to determine what pretrial motions, if any, need to be filed on defendant's behalf. Defendant is also contemplating retaining an expert to assist in his defense and additional time would be needed to allow the expert to review the case material and consult with defendant and his counsel. The government does not oppose defendant's request for a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and GRANTS the defendant's motion to continue. In deciding to grant the motion to continue, the court considered the factors outlined in 18 U.S.C. §3161(h)(7)(B) and found that failure to

grant a continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.


Accordingly, the court hereby **ORDERS** as follows:

1. Trial of this action is continued until April 6, 2022, at 9:30 a.m., in Charleston. Jury instructions and proposed voir dire are to be filed by March 30, 2022;
2. All pretrial motions are to be filed by March 14, 2022;
3. A pretrial motions hearing is scheduled for March 21, 2022, at 2:00 p.m., in Charleston;
4. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 6th day of January, 2022.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge